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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/371,776	08/10/1999	DOUGLAS P. CAMPBELL	TRW(VSSIM)42	9645

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EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 04/12/2002

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/371,776

Applicant(s)

CAMPBELL ET AL.

Examiner

David Dunn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12-21 and 23-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-10,12-17 and 23-44 is/are allowed.
- 6) ☒ Claim(s) 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

This Office Action is responsive to the amendment filed 2/21/02 in which claims 2 and 11 were canceled, and new claims 37-44 were added.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Kokeyuchi (6,231,087).

Kokeyuchi discloses an apparatus for helping to protect an occupant of a vehicle that has a side structure, said apparatus comprising: an inflatable vehicle occupant protection device that is inflatable into a position between the side structure of the vehicle and a vehicle occupant ("side air bag", see column 2, lines 1-5); and an inflator (Figure 1) for inflating said inflatable

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vehicle occupant protection device and for maintaining said inflatable vehicle occupant protection device in an inflated condition for at least seven seconds (column 2, lines 1-5), said inflator containing a stored inflation fluid under pressure, said inflation fluid consisting essentially of helium (see column 5, line 10). Kokeyuchi also shows a container (2) for storing inflation fluid; a rupturable closure member (5, 6); and an initiator (10), which when actuated, causes the closure member to rupture to allow inflation fluid to flow through the passage.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kokeyuchi in view of Hamilton (6,145,867).

Kokeyuchi is discussed above and fails to show a fill tube.

Hamilton teaches a fill tube (outer tube 96) located in the inflatable device. Hamilton also shows a container (174; Figure 10) for storing inflation fluid; a rupturable closure member (234); and an initiator (142), which when actuated, causes the closure member to rupture (with 230) to allow inflation fluid to flow through the passage.

It would be obvious to one of ordinary skill in the art at the time the invention was made to modify Kokeyuchi with the teachings of Hamilton in order to provide a connection from the inflator to the airbag.

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5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kokeguchi in view of Hamilton and further in view of Day (3,648,898).

The combination of Kokeguchi and Hamilton is discussed above and fails to show a support for supporting the closure member.

Day teaches a support member (18) for supporting a rupture member (16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Kokeguchi and Hamilton with the teachings of Day in order to provide additional support to better hold the rupture member.

Allowable Subject Matter

6. Claims 1, 3-10, 12-17 and 23-44 are allowed.

Response to Arguments

7. Applicant's arguments filed 2/21/02 have been fully considered but they are not persuasive regarding claim 18.

On page 12, Applicant argues that "the transitional phrase 'consisting essentially of' limits the scope of a claim to the specified materials and those that do not materially affect the basic and novel characteristics of the claimed invention."

First, it appears that Applicant is misinterpreting the Kokeguchi reference. It is clear from the disclosure that Kokeguchi intends to use a single inert gas as the gas in the chamber ("The gas is an inert gas"; column 2, lines 55-57). While Kokeguchi does say "such as argon and helium", here he is merely noting that "argon and helium" are examples of an inert gas. It is

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clear a reasonable interpretation of the reference by one of ordinary skill in the art would understand that helium and argon are examples of an inert gas, and that *an* inert gas is meant to be used in the chamber, such as helium, and that it is not intended to make a combination of argon and helium.

Applicant also attempts to argue that the addition of the enhancer cap means that the enhancer is somehow part of the inflation fluid. It is clear that the enhancer cap is separate from the fluid in the chamber and is not a component of the “inflation fluid”.

Second, with respect to the transitional phrase “consisting essentially of”, it is noted that the MPEP states “[a] ‘consisting essentially of’ claim occupies a middle ground between closed claims that are written in a ‘consisting of’ format and fully open claims that are drafted in a ‘comprising’ format.” (MPEP 2111.03). If it is critical that the inflation fluid be limited to just helium, it is recommended that Applicant use the claim language of “consisting of”.

Further, it is noted that the specification states that the inflation fluid “consists essentially of helium” and “[t]he inflation fluid may, however, have any other composition and storage pressure suitable for inflating the side curtain” (page 6). Applicant fails to give any support or reasons for having only helium as the inflation fluid. It is also noted that the specification does not limit the fluid to only helium, or say that only helium must be used, only that it consist “essentially” of helium. The MPEP notes (at 2111.03), “[f]or the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, ‘consisting essentially of’ will be construed as equivalent to ‘comprising’.”

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 703-305-0049. The examiner can normally be reached on Mon-Thur, alt. Fridays, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-1113.


DAVID R. DUNN
PATENT EXAMINER


PAUL N. DICKSON
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9/17/02